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UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Stephen E. FISCHER et al.

Group Art Unit: 2122

Appln. No. : 09/942,419

Examiner: F. Ferris, III

Filed : August 30, 2001

For : TETRAHEDRALIZATION OF NON-CONFORMAL THREE-DIMENSIONAL MIXED ELEMENT MESHES

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT OR ALTERNATIVELY TO REVIVE ABANDONED APPLICATION UNDER 37 C.F.R. 1.137(b)**

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petition  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

In response to the Notice of Abandonment dated February 2, 2006, Applicants are timely requesting withdrawal of the holding of abandonment or alternatively petitioning to revive the abandoned application under 37 CFR 1.137(b).

A Notice of Allowance and Fee(s) Due and Notice of Allowability was mailed on September 30, 2005. The Notice of Allowability indicated that corrected drawings must be submitted

including changes required by the attached Examiner's Amendment/Comment or in the *Office action or Paper No./Mail Date 4/14/05-Fig. 7.* (Emphasis Added.)

The issue fee was timely paid. On February 2, 2006, the U.S. Patent Office mailed a Notice of Abandonment indicating that corrected drawings were not timely filed.

02/14/2006 SZENDIE1 00000163 090458 09942419  
01 FC:1453 1500.00 DA

Applicants request withdrawal of the Notice of Abandonment or alternatively petition to revive the abandoned application under 37 CFR 1.137(b) based on the following reasons.

**Withdrawal of Holding of Abandonment**

Contrary to the Notice of Allowability, Applicants submit that there was no Office action or Paper No./Mail Date of 4/14/05-Fig. 7. After a thorough review of the file history, Applicants note that an Office Action was mailed on January 14, 2005 and another Office Action was mailed on July 12, 2005. There is no record, whatsoever, that an Office Action was mailed on April 14, 2005. Accordingly, the Notice of Allowability is incorrect and no reply was actually required.

However, in the Office Action of January 14, 2005, the Examiner requested a corrected Figure 7. In response to the Office Action of January 14, 2005, Applicants timely filed an Amendment on April 14, 2005. Accompanying this Amendment was a timely and properly filed new Figure 7. This new sheet with Figure 7 is the corrected figure that was incorrectly requested in the Notice of Allowance. A date stamped receipt evidencing the filing of the replacement figure is attached hereto. As the Office is aware, the stamped receipt provides *prima facie* evidence that the reply was timely filed. As a courtesy, Applicants also attached the new Figure 7 filed with the Amendment on April 14, 2005.

In view of the above facts, Applicants submit that the Notice of Allowability was in error and that, in any event, Applicants have fully complied with the Examiner's request to provide a replacement Figure 7. No Fee is required.

**Petition to Revive Abandoned  
Application Under 37 C.F.R. 1.137(b)**

The entire delay in filing the required reply from the due date for the reply (i.e., December 30, 2005) until the filing of a grantable petition was unintentional. Although Applicants submit that Figure 7 was already filed, Applicants attach hereto a new Figure 7 in an attempt to comply with the request on the Notice of Allowability. The petition fee



4/13/2005

GREENBLUM & BERNSTEIN, P.L.C.  
Intellectual Property Causes  
1950 Roland Clarke Place  
Reston, VA 20191  
(703) 716-1191



File In: M4/rwv

The Patent Office Date stamp below is an acknowledgement that, on the date indicated, the Patent Office received the following:

One new sheet of drawings (Fig. 7)

One replacement sheet of drawings (Fig. 7)

Amendment under 1.11  
 Executed Assignment and cover letter  
 Executed S.E.S.  S.E.S. Assertion  
 Req. for Ext. of Time  
 Fee Filing   
Recording   
Issue   
Extension   
Publication   
  
 Fee Transmittal  
 Maintenance Fee Payment  
 PTOL-85B Issue Fee & Publication Fee  
(with copy)  
 Cover Letter Regarding Drawings  
 Design Patent Application Transmittal  
 Utility Patent Application Transmittal  
 Provisional Application Cover Sheet  
 Request for Continued Examination  
(RCE) including Submission  
 Cover Letter  
 Check No. for \$  
 Credit Card Payment  
(Form PTO-2038) for \$  
 Rule 53b and 53f Letter for  
Unexecuted Application  
 Application Data Sheet

COPY

Claim of Priority & Certified  
Copy of \_\_\_\_\_

Declaration  Executed  
( Unexecuted  
( Copy from parent

Transmittal Letter

Patent Application  
( Provisional ( Reexam  
( Reissue ( Design  
( Continuation ( CIP  
( Divisional

\_\_\_\_\_ pages (w/abstract)  
\_\_\_\_\_ claims \_\_\_\_\_ independent  
\_\_\_\_\_ sheets of drawings  
\_\_\_\_\_ figures

I.D.S. form PTO-1449 &  
Documents ( as attached  
( as listed on  
reverse  
 One self-addressed postcard  
 Certification under 1.97(e)  
 Certificate of Mailing (C-O-M)  
 Returned Envelope

In the matter of : TETRAHEDRALIZATION OF NON-CONFORMAL THREE-DIMENSIONAL MIXED ELEMENT MESHES

Applicant : Stephen E. FISCHER H.W.

Application No. : 09/942,419

Filed : 8/30/2001

Patent No. :

Issued :

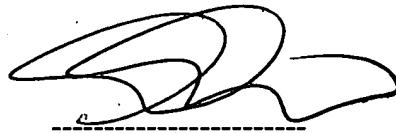
Docket : P26830

RW.M

as set forth in § 1.17(m) is authorized to be charged to IBM account no. 09-0458. Applicants believe that a terminal disclaimer is not required. Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

This request is timely since it is filed within 2 months from the mailing date of the Notice of Abandonment, i.e., February 2, 2006.

Respectfully submitted,  
Stephen E. FISCHER et al.



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Registration No. 38,093

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